

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CAROLE FETBROTH, et al.,

Plaintiffs,

ORDER

v.

23-CV-06947 (PMH)

STEVE AARON, et al.,

Defendants.

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PHILIP M. HALPERN, United States District Judge:

On August 8, 2023, Plaintiffs Carole Fetbroth, Michelle Amato, and Christine Phillips (“Plaintiffs”) commenced the instant action against Defendants Steve Aaron, Birchez Associates LLC, Roundout Properties LTD, Roundout Properties Management LLC, Birchez Investors LLC, and Joshua Aaron (“Defendants”). (Doc. 2). On August 9, 2023, the Clerk of Court issued summonses as to Defendants. (Doc. 7). The action was re-assigned to me on August 11, 2023. There is no indication on the docket that Defendants have been served, and Defendants have not appeared in this case.

On December 1, 2023, the Court issued an Order warning Plaintiffs that this action would be dismissed without prejudice, pursuant to Fed. R. Civ. P. 4(m), unless, on or before December 15, 2023, Plaintiffs filed proof of service indicating that Defendants were served on or before November 6, 2023 or showed good cause in writing for their failure to comply with Rule 4(m). (Doc. 8). Plaintiffs responded on December 15, 2023, indicating that Plaintiffs’ counsel “inadvertently entered the time for service of the Affidavit of service in this matter as 120 days, rather than 90.” (Doc. 9). Although good cause may have existed for the failure to serve by November 6, 2023 due to miscalendaring the deadline as December 6, 2023, Plaintiffs have not

shown any cause—let alone good cause—for failing to serve Defendants at any time to date. Indeed, December 6, 2023 has come and gone, and Plaintiffs have made no effort to serve. Accordingly, this case is dismissed without prejudice pursuant to Fed. R. Civ. P. 4(m).

To the extent Plaintiffs’ December 15 letter (Doc. 9) seeks an additional 45 days to amend their complaint, then serve all Defendants and file affidavits of service, that application is denied.

The Clerk of Court is instructed to close this case.

SO ORDERED:

Dated: White Plains, New York
December 15, 2023



PHILIP M. HALPERN
United States District Judge